

Notice of Allowability

Application No.

10/767,484

Examiner

Milap Shah

Applicant(s)

BAERLOCHER ET AL.

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to terminal disclaimer filed 3/8/07.
2. ☒ The allowed claim(s) is/are 16-45.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 3/24/04 & 3/13/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Adam Masia on March 15, 2007.

The Application has been amended as follows:

In the SPECIFICATION

Page 1, Paragraph 1: line 6: after "U.S. Patent Application Serial No. 10/410,019, filed April 8, 2003," insert "--now U.S. Patent No. 6,692,355,--."

In the CLAIMS

Cancellation of Claims: cancel claims 1-15.

REASONS FOR ALLOWANCE

Claims 16-45 are allowed.

The following is an examiner's statement of reasons for allowance: A thorough search of prior art fails to disclose any reference or references, which taken alone or in combination teach or suggest, in combination with the other locations, an invention in which a first offer comprising of offer components (i.e. a value and/or a multiplier) is presented to a player to either accept or reject said first offer and if said first offer is rejected, a second offer is presented, where the second offer may be a modification or based off the first offer where an offer component of the first offer is

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modified or reused. Claims 16-38 are directed towards the offers being constructed from a plurality of potential offer components comprising both a value component and a multiplier component. Claims 39-45 require an offer to include components of previous offers presented to the player. In all, the prior art fails to teach said offers comprised or based off of a plurality of offer components or a previous offer.

The closest prior art appears to be Wood et al. (U.S. Patent No. 5,511,781), in which a “stop play offer” is made to a player and the player is given the opportunity to accept or reject the offer, where when the player accepts the offer the game ends, which is similar to Applicant’s invention, however, when the player rejects the offer, the game continues on with the elements of whichever game is being played, where Applicant’s invention goes a step further and creates additional offers that the player again has the opportunity to accept or reject. These additional steps or features would not have been obvious over Wood et al, as there appears to be no motivation to offer a second “stop play offer” in Wood et al, as the offer in Wood et al. is a one-time stop play offer to stop playing the primary game if accepted or continue playing the primary game if rejected. Also, the accept/reject concept is known in the art, such as in the old and well known game show “The Price is Right”, where the player in the “Showcase Showdown” bonus round at the end of the show is able to accept or reject the first “showcase”. An additional example can be found in another old and well known game show, “Let’s Make a Deal” in which a player is able to accept or reject the first door selected from three doors for a prize. Thus, as can be seen the accept/reject concept is known, however, Applicant’s invention goes further into claiming how said offers are constructed being based off other offers or comprised of multiple components which are separately and independently changeable to come up with a new offer.

Additionally, the reasons for allowance of serial numbers 10/410,019 (now U.S. Patent No. 6,692,355) & 09/626,045 (now U.S. Patent No. 6,569,015) are incorporated herein as being the parent applications of the instant application. The instant application included obvious-type double patenting (discussed over a telephone interview, see Examiner's Interview Summary dated 2/28/07) to those parent applications. Accordingly the Applicant has filed a terminal disclaimer.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Terminal Disclaimer

The terminal disclaimer filed on March 8, 2007 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of U.S. Patent Numbers 6,692,355 & 6,569,015 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Information Disclosure Statement

The information disclosure statement filed March 25, 2004 fails to supply a legible copy of each non-patent literature document cited. It is acknowledged that the Applicant's point the Examiner to the parent file for said non-patent literature, however, the parent file does not appear to contain the non-patent literature. It is unclear whether it is an Office error for the missing non-patent literature in the parent file or an Applicant error. At this time, the non-patent literature cannot be considered. The U.S. patents and foreign patents, however, were considered. See attached Examiner initialed information disclosure statement.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milap Shah whose telephone number is (571) 272-1723. The examiner can normally be reached on M-F: 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SCOTT JONES
PRIMARY EXAMINER

MB.S.